

**TESTIMONY OF DELORES PIGSLEY  
CHAIRMAN, CONFEDERATED TRIBES OF SILETZ INDIANS**

**BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS**

**ON THE ACTIVITIES OF THE NATIONAL INDIAN GAMING COMMISSION**

Mr. Chairman, I appreciate the opportunity to provide testimony to the Committee on Indian Affairs for its oversight hearing on the activities of the National Indian Gaming Commission. From the perspective of the Siletz Tribe, this hearing is very timely.

On June 15th of this year, the Commission issued a Notice of Violation to the Siletz Tribal Council. This NOV alleges that the Siletz Tribal Council and its individual members violated the provisions of the Indian Gaming Regulatory Act, the Commission's regulations, the Tribe's gaming ordinance, and the class III Tribal-State Compact with the State of Oregon. It is alleged that these violations occurred in the "comping" practices of the Siletz Tribal gaming enterprise.

For the information of the Committee, "comping" is the business practice of providing complimentary benefits and services of the business as a marketing, advertising and public relations tool. "Comping" is particularly well accepted and widespread in the gaming industry. The cost of these benefits and services are accounted for by the gaming enterprise as a part of its operating expenses, in the Siletz case, for meals and entertainment.

Mr. Chairman, I am not going to go into the details of the Commission NOV and our response to it. A copy of the NOV, the Tribe's response to the NOV, and related material are attached to my statement and I ask that they be made a part of the Committee record. I only want to make the following short points.

First, as more fully set out in our response, we assert that the Commission has exceeded the authority conferred upon it by the Indian Gaming Regulatory Act in issuing the NOV. The Commission is attempting to substitute its business judgment in the operation of the Siletz gaming enterprise for that of the Tribe, its Board of Directors, and its casino management. This is an unacceptable assertion of power by the Commission and, if not challenged, would lead to the business management of tribal gaming enterprises by Commission regulation. We believe this is not authorized by the Act.

Second, Mr. Chairman, we most strongly protest the violation of basic fairness and procedural due process by the Commission in the issuance of this NOV. Acting on a "secret tip", the Commission requested information from the Siletz Tribal Gaming Commission. The STGC provided the Commission with unaudited data. Without further investigation and without consulting with the Tribe, the Commission prejudged the data and issued its notice of violation. If this were not bad enough, Mr. Chairman, the Commission posted the NOV on the Internet. In a final insult and

violation of basic fairness, the NOV appeared on the Internet before the formal notice was provided to the Tribe.

In addition, NIGC representatives also made statements to the media accusing the Tribal Council and its members of stealing money from the Casino. It was disgusting to be subject to news articles that labeled me personally as the recipient of freebies, cash, and loans benefiting my family. As the news clippings I have provided to the Committee show, we were condemned even before we were given an opportunity to explain the comps charged. Mr. Chairman, the Siletz Tribe and the people are outraged by this action of the Commission. The least effort on the part of the Commission and its employees would have revealed the facts and the more than legitimate uses of comping.

I believe that it is important to point out to the Committee that the Commission has hired, as an investigator in the Portland Area, a former employee of the Oregon State Police who served as a resource person to the State's compact negotiating team. This individual was extremely critical of the Siletz Tribe and the Tribe's gaming enterprise throughout our negotiations. The Tribe has already raised with the Commission the inability of this individual to be objective with the Tribe in his new capacity. We urge the Committee to consider the conflict of interest inherent in the Commission's employment of this individual.

Mr. Chairman, the Siletz Tribe asks this Committee to examine the Commission's action in light of the provisions of sections 17 (a) of IGRA. This subsection provides that:

"Except as provided in subsection (b), the Commission shall preserve any and all information received pursuant to this Act as confidential pursuant to the provisions of paragraphs (4) and (7) of section 552(b) of title 5, United States Code.

The Commission, at its request and with its knowledge, was provided with raw, unaudited data. Without any further investigation, it rushed to judgment and posted its unsupported allegations based upon that data on the Internet. This is an outrageous violation of the statutory restrictions placed by Congress on the Commission in subsection 17(a).

This is not a matter, Mr. Chairman, of the Siletz Tribe trying to escape legitimate regulation and oversight of its gaming operation. Chinook Winds Casino is subject to comprehensive monitoring and regulation by the Tribe's Gaming Commission and by the Oregon State Police. The State negotiated an extensive role for itself in the operation of Indian gaming in Oregon. The issue is whether or not NIGC has exceeded its congressional charter of authority. Given the fact that Indian tribes, including the Siletz Tribe, now provide all of funding for NIGC operations, we expect it to carry out its role in a responsible and professional manner.

Finally, Mr. Chairman, we hope the Committee will recognize the fundamental unfairness of the Commission's practice of publishing on the Internet notices of alleged violation that are based upon data that have not been audited or further investigated by the Commission. Not only is this practice unfair, but it also seems a violation of section 17(a) of IGRA.

Thank you, Mr. Chairman. I would be happy to respond to any questions the members of the Committee may have.